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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,218	09/17/2003	Alexander A. Maltsev	042390.P16281	3354
45209	7590	06/13/2008		
INTEL/BLAKELY 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER HARPER, KEVIN C	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 06/13/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/664,218

Applicant(s)

MALTSEV ET AL.

Examiner

Kevin C. Harper

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 22, 2008 has been entered.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5-8, 10-13, 15-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. (US 2003/0147476) in view of Subramanian et al. (US 2001/0031014).

1. Regarding claims 1-3, 5, 11-13, 15-18 and 20, Ma discloses a method comprising receiving channel state information based on several symbols (fig. 3; note: loop repeats symbol estimate) (fig. 1; para. 7, lines 1-4; note: CIR; para. 23, line 10; note: BER) including a channel transfer function estimate (CIR) and adjusting a modulation rate based on the channel state information (para. 23, line 10; note: adjusting a modulation scheme based on a bit error rate). Further regarding claim 11, the method is implemented by an apparatus comprising a modulation encoder and a weighting block (figs. 1 and 2). Further regarding claim 16, the system is OFDM (para. 23).

2. However, Ma does not disclose rescaling subcarrier power based on channel state information. Subramanian discloses adjusting subcarrier transmit power based on calculated channel state information (paras. 7 and 17; fig. 2). A subcarrier is turned off by allocating no bits (para. 57) and subcarriers are selected based on a SNR ratio threshold (paras. 17 and 33-34). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to rescale subcarrier transmit power based on channel state information in order to maintain a desirable communication session (para. 7).

3. Regarding claims 6-8 and 10, Ma discloses a method as noted in the rejection of claims 1-3 and 5 above. However, Ma does not disclose a computer readable medium for storing program instruction to carry out a method. One skilled in the art would recognize that program instructions stored in a computer readable medium are used to implement a method. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a computer readable medium in the invention of MA in order to provide a flexibly operated communication device as is known in the art.

Claims 4, 9, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Sumramanian as applied to claims 1, 6, 11 or 16, above, and further in view of Sampath (US 2003/0043929).

4. Regarding claims 4, 9, 14 and 19, Ma in view of Subramanian does not disclose trellis coding. Sampath discloses trellis coding for use in an OFDM system (paras. 53 and 78). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have trellis coding in the invention of Ma in view of Sampath in order to provide a robust coding scheme as is known in the art (Sampath, para. 78).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To, can be reached at 571-272-7629. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin C. Harper/

Primary Examiner, Art Unit 2616

June 9, 2008